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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/056,324	01/24/2002	Christopher W. Rahn	016276-9033	2909

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EXAMINER

ADDIE, RAYMOND W

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 02/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n N .

10/056,324

Applicant(s)

RAHN ET AL.

Examiner

Raymond W. Addie

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 3 is objected to because of the following informalities:

Claim 3, Ins. 2-3, the phrase "and one of each are", should be —and one of each are either, -- .

The phrase "and each intersect the second axis" should be —or each intersect the second axis--; to be consistent with Applicant's remarks, filed 11/28/2003, page 8. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4-7, 9, 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Carlson # 4,818,140.

Carlson discloses a screed assembly (24) for a paving vehicle (20) for use in forming pathways (21). Said vehicle having a horizontal, longitudinal, centerline.

The screed assembly comprising:

A frame (26, 27, 52) connectable with the vehicle (20).

A 1ST screed plate (80), having an inner and outer end, rotatably connected with the

frame (27), about a 1st axis, such as an axis through connecting points (26a).

Said 1st axis being perpendicular to the vehicle centerline.

A 2nd screed plate (81), also having inner and outer ends, such that the inner ends of both plates (80, 81) are pivotally connected together, via a pivot block (86), having a longitudinal axis (84) perpendicular to the axis through points (26a) and parallel to the vehicle centerline.

See Fig. 8; Col. 2, Ins. 27-40; Col. 4, Ins. 1-34.

A connective member (98) having a 1st end connected with the frame (52) and a 2nd end, linearly displaceable from the 1st end, and pivotally connected to the 1st screed plate (80), utilizing a pivot able joint illustrated in Fig. 3, such that when at least the 2nd screed plate pivots about the 1st axis, with respect to the frame (26); the 2nd screed plate rotatably displaces with respect to the connective member (98), (see ball & pin joint illustrate at 80c, in Fig. 3); while a the length of the connective member, between the ends may remain substantially constant.

Wherein the 1st & 2nd screed plates (80, 81) have respective 1st and 2nd working surfaces (80a, 81a) and the 1st screed plate is rotatably displaceable about a 3rd axis extending through the second (lower) end of the connective member, said 3rd axis being co-linear with the 1st axis, when the working surfaces (80a, 81a) are generally disposed within a common plane . See Fig. 3.

In regards to Claims 5-7, 9 Carlson discloses the connective member can be a hydraulic cylinder and may cause the 1st screed plate to rotatably displace about the 2nd axis, when the connective member is extended or retracted, thereby creating an acute vertical angle between said 1st and 2nd screed plates (80, 81), in order to form at least one tapered surface to the material being formed into a pathway. See col. 5, Ins. 3-10.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 8, 10-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carlson # 4,818,140 in view of Johanpeter # 6,273,636.

Carlson discloses essentially all that is claimed, the connective member can be a hydraulic cylinder and may cause the 1st screed plate to rotatably displace about the 2nd axis, when the connective member is extended or retracted, thereby creating an acute vertical angle between said 1st and 2nd screed plates (80, 81), in order to form at least one tapered surface to the material being formed into a pathway. See col. 5, Ins. 3-10, but does not specifically discuss how the screed "angle of attack" is adjusted to control the thickness of the material being formed into the pathway.

However, Johanpeter teaches a multi-section screed (1), having at least 2 separate screed plates (3, 14) that are adjustable in pitch (angle of attack) and transverse slope (crown). 1st and 2nd screed plates (3, 14) having 1st and 2nd working surfaces (4, 15), respectively. Said screed plate (14) being movably connected with the 1st screed plate (3), so as to be rotatably displaceable about 1st and 2nd axes that are perpendicular to one another, in order to adjust the angle of attack about a 1st axis and to adjust the cross-slope/crown of the roadway being formed.

A plurality of connective members (16/48) having 1st and 2nd ends. The 1st end being connected to a frame (12/46) the 2nd end being pivotally connected to the screed plate (14) and further being linearly displaceable from the 1st end.

Such that when the 1st screed plate rotates about the 1st axis (to adjust the angle of attack), the 2nd screed plate (14) pivotally displaces with respect to at least 2 connective members, while a distance between the 1st and 2nd ends of said at least 2 connective members (16/48) remains substantially constant. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to provide the screed assembly of Carlson, with a screed adjustment assembly, as taught by Johanpeter, in order to form inclined shoulders and/or crowned roadways, of different or similar thicknesses, as reasonably suggested by Johanpeter. See col. 3, ln. 23-col. 4, ln. 5; col. 5, lns. 14-24, col. 5, lns. 46-62, col. 6, lns. 50-col. 7, ln. 10; col. 8, lns. 45-65.

In regards to claims 10, 11, 13, 19 Carlson discloses essentially all that is claimed, as put forth with respect to claim 1, except for the use of a self-aligning pivot device.

However, Johanpeter, teaches an edge forming screed plate (14) for use with a main screed (6) for forming a tapered edge on a roadway. Said screed plate (14) further comprising: A connective member in the form of a hydraulic cylinder (col. 9, ln. 43); a self-aligning pivot device, including: A 1st portion (42) attached to a 2nd end (17b) of the screed plate (14) and a 2nd portion (75) attached to the connective member second end (52) and movably attached to the 1st portion. Each pivot portion (42/75) being rotatably displaceable with respect to the other portion at least partially about a 3rd and 4th axes that are perpendicular to one another. See col. 8, lns. 60-64. Johanpeter further teaches the connecting members (16) adjust the 2nd screed plate (14) independently of the 1st screed plate (3). Hence, it is obvious that when the 1st screed plate (3) is rotatably displaced about a 1st axis, for adjusting the angle of attack and hence the thickness of the mat, the 2nd pivot portion displaces rotatably with respect to the 1st pivot portion about said 3rd axis, such that the connective member 2nd end (52) remains substantially stationary with respect to the connective member 1st end (50), since the 2nd screed plate (14) is moved independently of the main screed (6). See col. 8, ln. 45-col. 9, ln. 13. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to provide the paving machine of Carlson, with a screed adjustment assembly, as taught by Johanpeter, in order to control the thickness and crown of the pathway of being formed.

Response to Arguments

4. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

Response to Amendment

5. Applicant's amendment to independent claims 1, 12, 20 filed 11/28/2003 now requires the 1st and 2nd screed plate inner ends be pivotally connected together. The specific limitation has necessitated a New Grounds of Rejection based on previously cited prior art.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

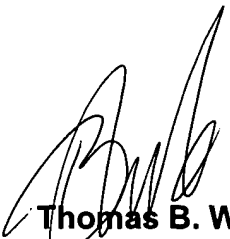
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond Addie whose telephone number is (703) 305-0135. The examiner can normally be reached on Monday-Friday from 7:00 am to 2:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached on (703) 308-3870. The fax phone number for this Group is (703) 872-9326.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1113.


Thomas B. Will
Supervisory Patent Examiner
Group 3600